IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO. 28 OF 2021

Vanashakti & Anr. .. Petitioners

Versus

Union of India & Ors. .. Respondents

Mr. Venkatesh Dhond, Senior Advocate with Mr. Akash Rebello, Mr. Zaman Ali i/by Mr. Zaman Ali for petitioners.
Mr. Parag A. Vyas i/by A. A. Ansari for respondent no.1-UOI.
Mr. Milind More, Addl. Govt. Pleader for respondent no.2-State.
Ms. Sharmila Deshmukh for respondent no.3-MCZMA.

C0RAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.

HEARD ON: OCTOBER 7, 2021
ORDER ON: OCTOBER 8, 2021

ORDER: [Per DIPANKAR DATTA, CJ.]:

1. The first petitioner is a public trust registered under the Bombay Public Trust Act, 1950. The second petitioner is a Director of the first petitioner.

2. By instituting this writ petition dated March 25, 2021 ~ in the Public Interest Litigation jurisdiction of this Court ~ the petitioners have mounted a challenge to a notification bearing

no. G.S.R 37 (E) dated January 18, 2019 (hereafter "the impugned notification") issued by the Ministry of Environment, Forest and Climate Change (hereafter "the Ministry") in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (hereafter "the Environment Act"). Such notification purports to supersede the Coastal Regulation Zone Notification 2011 (hereafter "the 2011 Notification") bearing no. S.O. 19(E) dated January 6, 2011.

3. Recitals in the impugned notification would reveal that the Ministry had received representations from various coastal States and Union Territories, besides other stakeholders, regarding certain provisions in the 2011 Notification related to management and conservation of marine and coastal ecosystems, development in coastal areas, eco-tourism, livelihood options and sustainable development of coastal communities, etc., together with requests to address the concerns related therewith. Pursuant thereto, the Ministry constituted a Committee under the Chairmanship of Dr. Shailesh Nayak to examine various issues and concerns as indicated hereinabove and to recommend appropriate changes

in the 2011 Notification. The report submitted by the Nayak Committee was examined by the Ministry in consultation with various stakeholders. This led to issuance of a draft Coastal Regulation Zone Notification 2018 which was hosted in the website of the Ministry on April 18, 2018 seeking comments and suggestions from all concerned. After considering the objections and suggestions, as received, the impugned notification was issued with a view to conserve and protect the unique environment of coastal stretches and marine areas, besides livelihood security to the fisher communities and other local communities in the coastal areas and to promote sustainable development based on scientific principles taking into account the dangers of natural hazards and sea level rise due to global warming, and the areas specified therein were declared as Coastal Regulation Zone (hereafter "the CRZ").

4. The impugned notification is challenged on the ground that some of its provisions are manifestly arbitrary and violative of Article 14 of the Constitution, as well as violates the right to live in a healthy environment, and consequently violates the right to life of citizens protected by Article 21. It is further claimed that the reasoning for enacting many of the changes

leading to the CRZ have no nexus with the object sought to be achieved. Also, the impugned notification contains provisions which are reenactment of provisions earlier struck down as unconstitutional by the Supreme Court or have been read down by the Supreme Court in earlier judgments. The main prayer in the writ petition is for declaring the impugned notification illegal and *ultra vires* Articles 14 and 21 of the Constitution, and to declare that the 2011 Notification continues to be valid and binding. It has also been prayed that the respondents may be restrained from acting further on the basis of the impugned notification and for a direction on them to act in accordance with the 2011 Notification. There are alternative prayers. Reading such prayers, one gets the impression of the petitioners feeling aggrieved by bits and pieces of the impugned notification and have prayed that parts of certain provisions may be declared arbitrary, illegal and *ultra vires*. If the prayers are granted, the effect thereof would result in deletion of such bits and pieces from the impugned notification.

5. At the out-set, Mr. Dhond, learned senior advocate for the petitioners, was called upon to satisfy us that this writ petition touching upon environmental issues is maintainable before this

Court having regard to the remedy available to the petitioners before the National Green Tribunal (hereafter "the Tribunal") under the National Green Tribunal Act, 2010 (hereafter "the NGT Act").

6. While attempting to satisfy us that the writ petition is maintainable, Mr. Dhond has advanced the following four contentions: -

(a) Section 15 of the NGT Act, dealing with relief, compensation and restitution and section 16 thereof, providing for appellate jurisdiction, would not stand in the way of entertaining and trying this writ petition. The only provision under the NGT Act which may seem to have some relevance in the present case but not barring a writ petition touching environmental issues is section 14. The jurisdiction of the Tribunal under Section 14 relates to resolution of civil disputes; however, since the prayer of the petitioners is to strike down a subordinate legislation as unconstitutional, the Tribunal under section 14 would have no such power. This is because this Court has consistently taken a view that the Tribunal cannot hear a challenge to the constitutional vires of legislation or a subordinate legislation.

(b) The Hon'ble Supreme Court has held that a statutory tribunal not constituted under Article 323A or Article 323B of the Constitution cannot consider a challenge to the vires of legislation/subordinate legislation. It therefore

matters not whether the challenge is under section 14 or section 16 of the NGT Act. The legislature cannot confer jurisdiction that it is not permitted by the Constitution to confer.

(c) The challenge to a statute/subordinate legislation is not a 'civil dispute' and hence the Tribunal is not clothed with the power or jurisdiction to examine it and strike down the statute.

(d) Without prejudice to the above, in the present matter, certain issues arise under the Maharashtra Regional and Town Planning Act, 1966 (hereafter "the MRTP Act") inasmuch as the impugned notification effectively grants additional FSI (Floor Space Index) which is a matter which falls under the Development Control Regulations framed under the MRTP Act. The writ petition, therefore, includes an issue that is incapable of being decided by the Tribunal.

7. In support of the proposition that the Tribunal has no power to strike down subordinate legislation, reliance has been placed on the Division Bench decision of this Court in **Central India Ayush Drugs Manufactures Association, Nagpur vs. State of Maharashtra**, reported in (2017) 1 Mh. L.J. 526. Reliance has also been placed on an unreported decision dated May 8, 2013 of another Division Bench of this Court in PIL No. 49 of 2013 **[Parshuram Uparkar vs. Union of India]**. In the

latter decision, law has been laid down on similar lines that the Tribunal has no power to examine the vires of a provision and strike it down. As to what would constitute a civil dispute, reference has been made to the decision of the Supreme Court in **Techi Tagi Tara vs. Rajendra Singh Bhandari & Ors**., reported in (2018) 11 SCC 734. The decision in **Tamil Nadu Pollution Control Board vs. Sterlite Industries**, reported in (2019) 19 SCC 479, has also been relied on where, on interpretation of the decision in **L. Chandra Kumar vs. Union of India**, reported in (1997) 3 SCC 261, the Supreme Court has held that only a statutory tribunal constituted under Article 323A or Article 323B would have the power to strike down a legislation/subordinate legislation; and environment not being a subject enumerated under Articles 323A or 323B, an environmental tribunal deriving power from a legislative enactment, as distinguished from the Constitution, cannot strike down legislation on the anvil of it being in violation of Constitutional provisions.

8. It has also been contended, without prejudice to the aforesaid submissions, that the present matter would involve certain issues under the MRTP Act and such issues would be

incapable of being decided by the Tribunal. The contention advanced is that the Tribunal not having any specialized expertise to deal with issues pertaining to urban and town planning, this Court ought to exercise its jurisdiction. In this connection, once again the decision in **Parshuram Uparkar** (supra) has been relied on.

9. We have not considered it necessary to call upon the respondents to answer the contentions of Mr. Dhond.

10. Power conferred on the High Courts by Article 226 of the Constitution is very wide. Article 226 in terms does not place any limit on the Court's power. However, writ remedy being discretionary, the power has to be exercised judiciously bearing in mind certain self-imposed restrictions propounded by authoritative decisions of the Supreme Court. A writ court may decline interference if an alternative, efficacious and speedy remedy is available to the petitioner who approaches it with a grievance that his legal right has been infringed. This is not based on any rule of law, rather it is based on a rule of policy, convenience or discretion. There are four exceptions carved out by the Supreme Court and if any one of such exceptions is present in a particular case, the writ court may not to hesitate

to entertain the plea. However, here we are not concerned with an alternative remedy available to the petitioners in the sense that they can choose between two remedies made available by law. On the contrary, a remedy seems to be available to them under the NGT Act; and if we hold that the petitioners' plea is such that it can be entertained and decided by the forum created by the NGT Act, which also provides an appellate remedy before the Supreme Court on any one of the grounds mentioned in section 100 of the Code of Civil Procedure, it would seem to us that the NGT Act instead of providing an alternative remedy, provides the first remedy to an aggrieved party who seeks to raise a substantial question relating to environment; and after such remedy is exhausted, he may explore further remedies as law would provide. Apart from this, delay or laches in seeking redress before the writ court is one of the other restrictions based whereon a plea, howsoever meritorious, may not be entertained. We propose to proceed bearing these in mind.

11. The impugned notification has been issued by the Central Government in exercise of power conferred by section 3. Since sub-section (1) and clause (v) of sub-section (2) of section 3

are the provisions upon invocation of which the impugned notification has been issued in the manner required by sub-section (3), we consider it proper to reproduce the same hereunder for facility of convenience: -

> **3. Power of Central Government to take measures to protect and improve environment**.—(1) Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.
>
> (2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely:—
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> ***
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> (*v*) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;
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> ***
>
> (3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under Section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

12. Bare reading of the aforesaid provisions would reveal that

section 3 empowers the Central Government to take all such measures, as it deems necessary or expedient for all such purposes as is referred to in sub-section (1) as well as in the various clauses of sub-section (2) including clause (v). It is with a view to implement the mandate of the Environment 1986 Act that the Central Government, upon superseding the 2011 Notification, has proceeded to issue the impugned notification. There can be no dispute that the Central Government has been placed in a position of trust by the people, who have expressed their will through their elected representatives leading to the relevant enactment, to ensure that no activities are allowed which ultimately can lead to unscientific and unsustainable development, and ecological destruction. Indeed, if there be a failure on the part of the Central Government to do so, it would be the duty of the Courts to scrupulously try to protect the ecology and the environment.

13. Till 2010, the Constitutional courts were approached either in its Public Interest Litigation jurisdiction or the "Green Bench" entrusted to hear environmental matters for resolution of disputes touching environmental issues and to address concerns for the benefit of human kind. However, with the

introduction of the NGT Act, which received the assent of the President of India on June 2, 2010, a new forum opened up where environmental issues could be tried and decided. The preamble of the NGT Act reads as follows:-

> "An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources, including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto".

14. In terms of section 3 of the NGT Act, the Tribunal has been constituted which has a retired Judge of the Supreme Court of India as its Chairman. The Tribunal also comprises of, *inter alia*, expert members and the qualifications for appointment as expert members are engrafted in sub-section (2) of section 5 of the NGT Act.

15. Section 14 of the NGT Act, which is the main provision falling for our consideration, reads as follows: -

> **14. Tribunal to settle disputes**. - (1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

> (2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.
>
> (3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:
>
> Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days."

16. Section 15 of the NGT Act provides for relief, compensation and restitution to the victims of pollution and environmental damage. Section 16 has vested the Tribunal with appellate jurisdiction. These two sections do not create any hurdle for the petitioners.

17. The Environment Act figures in Schedule-I of the NGT Act. Therefore, for the purpose of the present case, the plain meaning of sub-section (1) of section 14 is that the Tribunal shall have the jurisdiction to hear a civil case raising a substantial question relating to environment (including enforcement of any legal right relating to environment) subject, of course, to such question arising out of implementation of the Environment Act. The contention advanced before us is that the Tribunal cannot entertain a challenge to the impugned notification because it has no power or jurisdiction to declare a

delegated legislation unconstitutional or *ultra vires*. Let us now consider how far such contention is acceptable.

18. The first question that would necessarily fall for our consideration is, whether the impugned notification is a delegated legislation? The answer, for the following reasons, cannot but be in the negative.

19. We have read the terms of the impugned notification as well as the provisions, which are the source of its origin. Section 3 empowers the Central Government to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of environment and preventing, controlling and abating environmental pollution by restricting areas in which any industries, operations or processes or classes of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards. By the impugned notification, not only has the CRZ been declared but it proceeds to provide for areas requiring special consideration under the CRZ, prohibited activities and regulation of permissible activities within the CRZ, Coastal Zone Management Plan, CRZ clearance for permissible and regulated activities, etc. It has been notified with other measures for the

general information of the public. In effect, these are measures which are geared towards implementation of the Environment Act.

20. We need not burden this order with any discussion on what delegated legislation is. Suffice to say, the petitioners are laboring under a misconception that the impugned notification is a law brought into force by the Central Government in exercise of the power of delegated legislation conferred by the Environment Act. Far from it, we see the impugned notification as one which is a statutory order of the Central Government made in pursuance of what is called in Administrative Law as 'administrative delegation'. A legislature may confer upon an administrative authority not only the power to make rules and regulations to carry out the purposes of a statute but also the power to apply the law to particular cases by making orders in exercise of the statutory power. So far as the validity of such orders themselves are concerned, they are subject to the doctrine of *ultra vires* and must, therefore, be within the limits set by the statute. Sections 6 and 25 specifically empower the Central Government to make rules in respect of all or any of the matters referred to in section 3 and for carrying out the

purposes of the Environment Act, respectively. Pertinently, the Environment (Protection) Rules, 1986 have been framed by the Central Government in exercise of power conferred by sections 6 and 25 of the Environment Act. These rules, being delegated legislation, are distinct and different from the statutory order made under section 3. The impugned notification not having been issued in exercise of the rule making power of the Central Government, cannot be seen as a product of delegation legislation in the sense it is understood in Administrative Law. This being our conclusion as to the nature of power that was exercised to bring into existence the impugned notification, all the cited decisions have no application.

21. The real concern of the petitioners is that the measures brought about by the impugned notification are insufficient to prevent unscientific and unsustainable development, and ecological destruction, and it is claimed that they are not intended to protect life. The phrase "substantial question relating to environment" appearing in sub-section (1) of section 14 has been defined in clause (m) of sub-section (2) of section 1 of the Environment Act. It reads as follows:

> (m) 'substantial question relating to environment' shall include an instance where, -

(i) there is a direct violation of a specific statutory environmental obligation by a person by which, -

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable;

(ii) the environmental consequences relate to a specific activity or a point source of pollution;"

All the concerns that the petitioners have urged do stand covered by 'substantial question relating to environment', and would also include an attempt to enforce their legal rights in the pursuit of protecting the environment; therefore, their plea is squarely covered by section 14(1) of the NGT Act.

22. Next, we proceed to deal with the contention that challenge to a statute/subordinate legislation is not a 'civil dispute'. We feel, this contention has been urged to be rejected. One has to really torture a case of the present nature so that it does not fit into a 'civil case'. The Tribunal has been vested with powers that are normally vested with civil courts. A remedy of appeal to the Supreme Court is provided by section 22 on grounds as mentioned in section 100 of the Code of Civil Procedure. It would not be inapposite at this stage to remind ourselves of what the Supreme Court observed in **S.A.L. Narayan Row vs. Ishwarlal Bhagwandas**, reported in AIR

1965 SC 1818, on different kinds of proceedings. A passage from such decision, providing useful guidance, is quoted below:

> "8. *** The expression 'civil proceeding' is not defined in the Constitution, nor in the General Clauses Act. The expression in our judgment covers all proceedings in which a party asserts the existence of a civil right conferred by the civil law or by statute, and claims relief for breach thereof. A criminal proceeding on the other hand is ordinarily one in which if carried to its conclusion it may result in the imposition of sentences such as death, imprisonment, fine or forfeiture of property. It also includes proceedings in which in the larger interest of the State, orders to prevent apprehended breach of the peace, orders to bind down persons who are a danger to the maintenance of peace and order, or orders aimed at preventing vagrancy are contemplated to be passed. But the whole area of proceedings, which reach the High Courts is not exhausted by classifying the proceedings as civil and criminal. There are certain proceedings which may be regarded as neither civil nor criminal. For instance, proceeding for contempt of court, and for exercise of disciplinary jurisdiction against lawyers or other professionals, such as Chartered Accountants may not fall within the classification of proceedings, civil or criminal. But there is no warrant for the view that from the category of civil proceedings, it was intended to exclude proceedings relating to or which seek relief against enforcement of taxation laws of the State. The primary object of a taxation statute is to collect revenue for the governance of the State or for providing specific services and such laws directly affect the civil rights of the tax-payer. If a person is called upon to pay tax which the State is not competent to levy, or which is not imposed in accordance with the law which permits imposition of the tax, or in the levy, assessment and collection of which rights of the tax-payer are infringed in a manner not warranted by the statute, a proceeding to obtain relief whether it is from the tribunal set up by the taxing statute, or from the civil court would be regarded as a civil proceeding. The character of the proceeding, in our judgment, depends not upon the nature of the tribunal which is invested with authority to grant relief, but upon the nature of the right violated and the appropriate relief which may be claimed. A civil proceeding is, therefore, one in which a person seeks to enforce by appropriate relief the

> alleged infringement of his civil rights against another person or the State, and which if the claim is proved would result in the declaration express or implied of the right claimed and relief such as payment of debt, damages, compensation, delivery of specific property, enforcement of personal rights, determination of status etc."

(emphasis supplied)

We say no more.

23. In **Techi Tagi Tara** (supra), the Supreme Court has held, in the context of the NGT Act that a 'dispute' would be the assertion of a right or an interest or a claim met by contrary claims on the other side. Based on the aforesaid guidance provided by the Supreme Court, we hold that the case laid by the petitioner before us, if the same had been laid before the Tribunal, would partake the character of a 'dispute' if the respondents had chosen to contest the same by countering it. There is absolutely no merit in the contention advanced and, thus, it stands rejected.

24. This takes us to the last contention. It is the petitioners' claim that changes brought about in the CRZ by the impugned notification would amount to a modification of a substantial nature in the Development Control Regulations under the MRTP Act and this is an issue which the Tribunal is incapable to decide in view of the provisions of the NGT Act.

25. We would preface our discussion while dealing with this contention by referring to the decision of the Supreme Court in **Mantri Techzone (P) Ltd. vs. Forward Foundation**, reported in (2019) 18 SCC 494. This decision is not only relevant for the contention under consideration but also as regards interpretation of the several provisions of the NGT Act resulting in conferment of wide and extensive powers on the Tribunal in relation to environmental issues (paragraphs 40 to 46). The Court, upon recording that the NGT Act is a beneficial legislation held that:

> "46. *** An interpretation that is in favour of conferring jurisdiction should be preferred rather than one taking away jurisdiction."

While considering section 33, it was held as follows:

> "47. Section 33 of the Act provides an overriding effect to the provisions of the Act over anything inconsistent contained in any other law or in any instrument having effect by virtue of law other than this Act. This gives the Tribunal overriding powers over anything inconsistent contained in the KIAD Act, the Planning Act, the Karnataka Municipal Corporations Act, 1976 (the KMC Act); and the Revised Master Plan of Bengaluru, 2015 (RMP). A Central legislation enacted under Entry 13 of Schedule VII List I of the Constitution of India will have the overriding effect over State legislations. The corollary is that the Tribunal while providing for restoration of environment in an area, can specify buffer zones around specific lakes and waterbodies in contradiction with zoning regulations under these statutes or RMP."

26. In view of the pronouncement that the NGT Act would override State legislations, any planning law has to yield to the former. Equally, section 24 of the Environment Act provides that the provisions thereof and the rules or orders made therein shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than the said Act. The MRTP Act, if it contains any provision inconsistent with the Environment Act, must yield to the latter. Even otherwise, if there is direct violation of a specific statutory environmental obligation by a person affecting the community at large or likely to affect such community, the Tribunal may step in and pass such order as is warranted for settling the dispute.

27. We now propose to assign our own reasons as to why the contention under consideration does not appeal to us to be acceptable.

28. The Tribunal's jurisdiction to deal with environmental issues is so wide and expansive that literally speaking, 'everything under the sun' raising substantial question relating to environment can be dealt with by it. It would matter little that in its pursuit to further the objects for which the Tribunal has been brought into existence as well as to ensure protection

of environment and conservation of forests and other natural resources including enforcement of any legal right relating to environment, any other enactment is required to be considered. So long as the basic question remains the same, i.e, the Tribunal is either approached or is duty bound to secure proper implementation of the enactments specified in Schedule I of the NGT Act and a substantial question in relation thereto arises, and the decision of the Tribunal on such question would beneficially impact the environment, merely because in the process of decision making the Tribunal may be required to consider provisions of any other enactment would not denude it of its fundamental and predominant task of taking decisions that would advance the object of the Schedule I enactments as also to secure the ends of justice in any particular case. We may refer in this connection to rule 24 of the National Green Tribunal (Practice and Procedure) Rules, 2011 framed by the Central Government.

29. There is one final reason for which we are not persuaded to accept the contention of Mr. Dhond. There could be a situation that the impugned notification is also under challenge before the Tribunal on the first two contentions raised by the

petitioners, as noted above, in an application under section 14 of the NGT Act. If this writ petition were entertained, which raises the fourth contention also, as noted above, the Court would be tasked to decide the first two and the fourth contentions on its own merits. The Tribunal also being in *seisin* of the first two contentions, there would always be a possibility of conflicting opinions being rendered by this Court and the NGT in respect of the same subject matter of challenge which, in our opinion, would be absolutely undesirable.

30. Regard being had to the wide contours of the Tribunal's powers to address all concerns pertaining to environment, it would not be appropriate for us to entertain this writ petition on the specious ground that issues relating to the MRTP Act may also incidentally arise for consideration of the Tribunal. If such issue arises, the Tribunal has to decide the same bearing in mind that it being a creature of the NGT Act, environmental interest is of paramount consideration and it has to decide accordingly.

31. We are also minded to observe that no Court ought to interfere in respect of matters over which the Tribunal has jurisdiction, or else the very purpose for enactment of the NGT

Act would stand defeated. The Tribunal, having regard to its constitution, would be better equipped to deal with all points of law and facts, which could be intricate, with the expert assistance that is available at its level.

32. The discussion must end by quoting paragraph 40 of the decision of the Supreme Court in **Bhopal Gas Peedith Mahila Udyog Sangathan vs. Union of India**, reported in (2012) 8 SCC 326, reading as follows:

> "40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short "the NGT Act") particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short "NGT"). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialised justice in the field of environment to all concerned."
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> (emphasis supplied)

33. We, therefore, reject this contention too.

34. There is one other reason why we feel disinclined to entertain the writ petition. The impugned notification is dated January 18, 2019. The writ petition has been presented on March 25, 2021. There is no explanation offered for the belated

approach. True it is, the entire nation was in a state of disarray from March 23, 2020 but the first wave in Mumbai started receding from November, 2020. This period could count for exclusion and not the rest. The delay is, thus, unreasonable.

35. For the reasons aforesaid, we decline interference. The writ petition is dismissed. No costs.

36. Since we have been informed that the Coastal Zone Management Plan has been finalized during the pendency of the writ petition, we grant liberty to the petitioners to pursue their remedy before the Tribunal in accordance with law.

(M. S. KARNIK, J.) **(CHIEF JUSTICE)**